

REMARKS

This reply is intended to distinctly and specifically point out presumed errors in the Examiner's Action, to respond to every ground of objection and rejection, and to advance this case to allowance.

Please enter the foregoing amendments into the record.

Applicants wish to bring to the examiner's attention co-pending USSN 10/398,977 which discloses compounds which have "CH<sub>2</sub>" rather than "X" as O or S in the side chain at position 2 of the pyrimidin-4-one ring. To illustrate, in the '997 application the position 2 side chain is 2-(4-fluorobenzyl)thio-, as compared to this application wherein that position 2 side chain is illustrated by 2-(2,3-difluorobenzyl)methyl- and the like.

Rejection Under 35 USC §112, 1<sup>st</sup>¶

Claims 23 and 24 have been rejected under Section 112 1<sup>st</sup>¶ allegedly because the specification only contains a basis for treating atherosclerosis, and not other cardiovascular events relating to coronary events. Applicants are requesting the deletion of claims 23 and 24 and have submitted new claim 27 that is limited to treating atherosclerosis. Accordingly this rejection would appear to be addressed.

Rejection Under 35 USC §112, 2<sup>nd</sup>¶

The examiner has raised objections to the definiteness of claims 18-20 and 22-24. Applicants have submitted amendments herein above that, in their view, address the recited items which the examiner alleges are indefinite.

Claim 18: With reference to the examiner's paragraph numbering, the several amendments have been made to this claim are discussed in more detail as follows:

- 1) The phrase "heterocyclic ring comprising N" has been amended, as suggested by the examiner, to read "heterocyclic ring comprising having N".
- 2) - 3) The term "R<sup>2</sup>CH<sub>2</sub>X" has been replaced by the phrase "R<sup>2</sup> is phenyl, substituted by one to three fluorine atoms;" to be consistent with the way generalized radicals are set out in the graphical representation of Formula (IB). Consequently, the definition of "X" further on in the claim has been retained. There is basis for this amendment can be found on page 7 of the specification, line 3, where the definition of R<sup>2</sup> is said to be "as herein above defined, ..." Previously, on page 5, lines 28/29, R<sup>2</sup> is defined as "phenyl ... substituted by halogen, preferably from 1 to three fluorine atoms ..." With this amendment, "R<sup>2</sup> now encompassed the species in claim 19 where the phenyl group is 2,3-difluorobenzylthio, 3,4-difluorobenzylthio, and 2,3,4-trifluorobenzylthio.
- 3) As regards R<sup>4</sup> and R<sup>5</sup>, claim 18 has been amended as suggested by the examiner to read: --R<sup>4</sup> and R<sup>5</sup> together form a 4-(4-trifluoromethylphenyl)phenyl moiety --.

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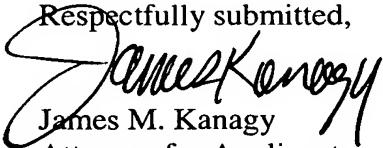
- 4) Allegedly claim 18 as examined contains the limitation that R<sup>3</sup> must have a terminal amine group, though 1 compound in claim 19 has an N-methyl group for R<sup>3</sup>. Applicants have submitted an amendment herein which reads: -- R<sup>3</sup> is methyl or C<sub>(1-3)</sub>alkyl substituted by NR<sup>8</sup>R<sup>9</sup>; --. For support, see page 7 of the specification, line 3, where the definition of R<sup>3</sup> is said to be "as herein above defined, ..." Previously, on page 5, lines 33, R<sup>3</sup> is defined as methyl.
- 5) Claim 19 has been rejected, in part, on the basis it recites certain R<sup>4</sup>-R<sup>5</sup> groups that are not within the scope of that pair of radicals as defined in claim 18. Applicants have deleted those compounds herein above namely those with the terms -- phenoxy-- and --biphenyl-4-yl)propyl--. Applicants have also deleted the first compound in claim 19 because it recites -- (4-chlorophenyl)benzyl -- as an R<sup>4</sup>-R<sup>5</sup> group, which is also outside the scope of that duo.
- 6) Applicants have amended claim 18 to by adding the phrase -- or a pharmaceutically acceptable salt thereof -- to address the examiner's issue in paragraph 6.
- 7) Claim 20 has been deleted.

Double Patenting

Claims 18-20 and 22 have been rejected on the basis of double patenting over claims 1-3 of US patent No. 6,649,619. The double patenting rejection could be overcome by a terminal disclaimer according to the examiner. Claims 20 and 22 have been canceled so the rejection no longer applies to them. It will be assumed new claim 27 will be made subject to the same demand for executing a terminal disclaimer, if entered into the record. Applicants agree to execute a terminal disclaimer with regards to any allowed claims.

Conclusion

In view of the above remarks, reconsideration of this application is requested. Should the Examiner have any questions or wish to discuss any aspect of this case, the Examiner is encouraged to call the undersigned agent at the number below.

Respectfully submitted,  
  
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